

The Legal Review

Sharing Case Law that Affects the Household Employment Industry

A Complimentary Resource from
Breedlove & Associates

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In an effort to help you strengthen your business practices and steer clear of legal trouble, The Legal Review will share findings from relevant legal cases. We've found that the easiest way to gain a practical understanding of complex tax and labor law is by reviewing real-life situations. These stories will illuminate potential legal landmines for your agency and/or your clients, and more importantly, show you how to avoid them.

Injury on the Job: Worker's Compensation to the Rescue

The Mistake

We usually begin with a serious mistake which triggers a lawsuit. In this case, we'll highlight a lawsuit that didn't happen. A potentially expensive, time-consuming, and relationship-ending mistake was prevented by a family's decision to purchase a workers' compensation policy.

The Law

What is a workers' compensation policy and what benefit does it provide? Workers' compensation is not a payroll tax and is not included in the payroll withholding or tax remittance process. It is an insurance policy and must be purchased through the state or a state-licensed insurance provider. Workers' compensation provides financial assistance to employees who suffer job-related injury or illness. The benefits assist with lost wages as well as medical expenses.

In addition, it protects employers from lawsuits; when an employee who has been injured on the job accepts workers' compensation benefits, she forfeits the option to sue her employer.

Household employers are required to hold a workers' compensation policy on their household employees in approximately 30 state. (Note: Many families are already covered under their current homeowners insurance policy. If they are not already covered, they can usually add a rider over the phone.)

The Mess

- A nanny slipped on her employer's front steps and broke her ankle.
- After a trip to the emergency room to confirm that the ankle was broken and to seek medical treatment, the nanny approached the family with the following demands:
 1. She demanded payment for all medical treatment, since the injury occurred on the job.
 2. She informed the family that her husband was considering a lawsuit against the family for lost wages.
- The family, a Breedlove & Associates client, contacted us for guidance on how to handle the mess. They did not want to lose their nanny nor did they want an expensive lawsuit. However, they did not feel they should pay for medical treatment and lost wages just because the injury occurred in their home.

The Mess (continued)

- The family lived in California, a state in which household employers are required by law to have workers' compensation. We explained that workers' compensation benefits would address all of the issues of this case successfully. The family could not remember if they had purchased a workers' compensation policy, so we instructed them to check with their homeowner's insurance representative to see if the policy was simply a part of their annual insurance premiums.

The Outcome

- The family did indeed have a workers' compensation policy that they established when they hired their nanny. It was a part of their annual insurance premiums and thus easy to forget.
- The nanny filed a workers' compensation benefit claim. The benefits covered her medical expenses. The benefits also provided compensation for lost wages while she was away from work. In accepting the benefits, she and her husband forfeited the right to sue. The employment relationship was salvaged, and the nanny returned to work.

To help your clients understand the tax obligations for both employer and employee, we have developed a simple educational flyer entitled "Workers' Compensation: What is it, Why it's important, and who's required to have it.". The flyer can be downloaded from <http://www.breedlove-online.com/partners/library-of-educational-literature-helpful-tools> along with our other helpful resources. Or feel free to invite your clients to call us for a complimentary, no-obligation phone consultation. In about 10 minutes, we can assess their situation and give them comprehensive financial and legal guidance. Whether they sign up with our service or not, we'll make sure this kind of ugly situation never happens to one of your clients.

If you would like hard copies of our "Workers' Compensation" flyer, just send an email to info@breedlove-online.com.

If you have additional questions, please call 888-BREEDLOVE (273-3356) or visit www.breedlove-online.com. We're here to help our agency partners provide their candidates and clients with information, tools and resources that improve the employment relationship, eliminate legal risk for all parties, and increase the professionalism of the industry.

